

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLAWAY GOLF COMPANY,)	
)	
Plaintiff,)	C.A. No. 06-91 (SLR)
)	
v.)	
)	JURY TRIAL DEMANDED
ACUSHNET COMPANY,)	
)	
Defendant.)	

**ACUSHNET'S CITATION OF SUBSEQUENT AUTHORITY PURSUANT
TO LOCAL RULE 7.1.2(B) IN FURTHER SUPPORT OF ITS REPLY IN SUPPORT
OF ITS MOTION UNDER RULE 50(B) FOR JUDGMENT AS A MATTER OF LAW
OR IN THE ALTERNATIVE MOTION FOR NEW TRIAL UNDER RULE 59**

Pursuant to Local Rule 7.2.1(B), Acushnet Company (“Acushnet”) hereby cites the following subsequently-issued Federal Circuit case authority directly applicable to Acushnet’s Reply Brief in Support of Its Motion Under Rule 50(B) for Judgment as a Matter of Law or In the Alternative Motion for New Trial Under Rule 59 (D.I. 465) (“Reply Brief”):

1. In support of the arguments in Acushnet’s Reply Brief at 8-10, see *Agrizap, Inc. v. Woodstream Corp.*, Nos. 2007-1415, -1421, --- F.3d ---, 2008 U.S. App. LEXIS 6471, at *2 (Fed. Cir. Mar. 28, 2008) (reversing jury verdict of validity and invalidating patent-in-suit) (“Though we defer to the jury for its fact findings on obviousness, we ultimately conclude that, despite those findings, the patent claims in dispute are invalid for obviousness and thus reverse the district court’s denial of Woodstream’s JMOL in that respect.”); *id.* at **12-13 (“[A]s the ultimate conclusion of obviousness is a question of law, it remains our duty as the appellate court to ensure that the law has been correctly applied to the facts [and] we review *de novo* the conclusion on obviousness.”).

2. In support of the arguments in Acushnet’s Reply Brief at 11-13, see *Agrizap*, 2008 U.S. App. LEXIS 6471, at *16 (In “reviewing the same prior art that the PTO relied upon,”

“[e]ven when we presume the jury found that the [secondary considerations] of nonobviousness favored *Agrizap*, this evidence is insufficient to overcome the overwhelming strength of Woodstream’s *prima facie* case of obviousness”).

3. In support of the arguments in Acushnet’s Reply Brief at 19-21, see *Agrizap*, 2008 U.S. App. LEXIS 6471, at *12 & n.3 (referring to the “black box verdict form … that merely ask[ed] the jury to answer ‘yes’ or ‘no’ as to whether a claim is obvious” as a “special verdict”).

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Joseph P. Lavelle
Kenneth W. Donnelly
Brian A. Rosenthal
HOWREY LLP
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004
Tel: (202) 783-0800

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By: /s/ David E. Moore
Richard L. Horwitz (#2246)
David E. Moore (#3983)
Hercules Plaza 6th Floor
1313 N. Market Street
P.O. Box 951
Wilmington, DE 19899
Tel: (302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com

Attorneys for Defendant Acushnet Company

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on April 3, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on April 3, 2008, the attached document was Electronically Mailed to the following person(s):

Thomas L. Halkowski
Fish & Richardson P.C.
919 N. Market Street, Suite 1100
P. O. Box 1114
Wilmington, DE 19899-1114
halkowski@fr.com

Frank E. Scherkenbach
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
scherkenbach@fr.com

Robert A. Denning
David S. Shuman
W. Chad Shear
Fish & Richardson P.C.
12290 El Camino Real
San Diego, CA 92130
denning@fr.com
shuman@fr.com
shear@fr.com

Jonathan J. Lamberson
Christina D. Jordan
Craig R. Compton
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063
lamberson@fr.com
cjordan@fr.com
compton@fr.com

/s/ David E. Moore
Richard L. Horwitz
David E. Moore
Potter Anderson & Corroon LLP
Hercules Plaza – Sixth Floor
1313 North Market Street
Wilmington, DE 19899-0951
(302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com